

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)

4) **CASE CLOSURES UNDER**
5) **ENFORCEMENT PRIORITY SYSTEM**
6)

7
8 **SENSITIVE**

9 **GENERAL COUNSEL'S REPORT**

10
11 **I. INTRODUCTION**

12 The cases listed below have been evaluated under the Enforcement Priority System
13 ("EPS") and identified as either low priority, stale, subject to the media exemption, or
14 cases previously reviewed by the ADR Office. This report recommends that the Commission
15 no longer pursue the cases cited in section II for the reasons discussed below.

16 **II. CASES RECOMMENDED FOR CLOSURE**

17 **A. Cases Not Warranting Further Action Relative to Other Cases**
18 **Pending Before the Commission**
19

20 EPS was created to identify pending cases that, due to the length of their pendency in
21 inactive status or the lower priority of the issues raised in the matters relative to others
22 presently pending before the Commission, do not warrant further expenditures of resources.
23 Central Enforcement Docket ("CED") evaluates each incoming matter using Commission-
24 approved criteria that result in a numerical rating for each case.
25

25-04-406-1907

1 We have identified six cases that do not warrant further action relative to other
2 pending matters. This Office recommends that all six cases be closed.¹ Attachment 1 to this
3 report contains a factual summary of each case recommended for closure, the case EPS
4 rating, and the factors leading to the assignment of a low priority.

5 **B. Stale Cases**

6 Effective enforcement relies upon the timely pursuit of complaints and referrals to
7 ensure compliance with the law. Investigations concerning activity more remote in time
8 usually require a greater commitment of resources primarily because the evidence of such
9 activity becomes more difficult to develop as it ages. Focusing investigative efforts on more
10 recent and more significant activity also has a more positive effect on the electoral process
11 and the regulated community. EPS provides us with the means to identify those cases that,
12 though earning a higher numerical rating, remain unassigned for a significant period due to a
13 lack of staff resources for an effective investigation. The utility of commencing an
14 investigation declines as these types of cases age, until they reach a point when activation of
15 such cases would not be an efficient use of the Commission's resources.

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18 We have identified one case that has remained on the Central Enforcement Docket for
19 a sufficient period of time to render it stale. This Office recommends that it be closed.²

¹ The cases recommended for closure are: P-MUR 409 (*Boone National Bank*); MUR 5273 (*Rocky Flash for U.S. Congress*); MUR 5282 (*Meehan for Congress*); MUR 5302 (*Friends of Irvin*);
and MUR 5313 (*MI Democratic State Cntrl Cmte*). The ADR Office previously reviewed MURs 5273, 5282, 5302, and 5313 for potential inclusion in the ADR program, but decided to return them to this Office.

² The case recommended for closure is MUR 5252 (*Taxpayers for Better Government*).

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Attachment 2 to this report contains a summary and the EPS rating for the stale case recommended for closure.

C. Cases Returned to Enforcement

The ADR Office previously reviewed cases for potential inclusion in the ADR program, but decided to return them to this Office prior to the initiation of the new ADR procedures for recommended case closures.³ Attachment 3 to this report contains a summary and the EPS rating

III. RECOMMENDATIONS

OGC recommends that the Commission exercise its prosecutorial discretion and close the cases listed below effective two weeks from the date the Commission votes on the recommendations. Closing these cases as of this date will allow CED and the Legal Review Team the necessary time to prepare closing letters and case files for the public record.

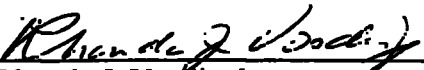
³ The two cases recommended for closure are MUR 5286 (*Porter for Congress*)

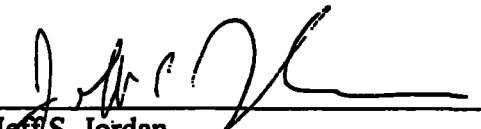
Take no action, close the file effective two weeks from the date of the Commission
vote, and approve the appropriate letters in:

1. P-MUR 409
2. MUR 5252
- 3.
4. MUR 5273
5. MUR 5282
6. MUR 5286
- 7.
8. MUR 5302
- 9.
10. MUR 5313

Lawrence H. Norton
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7/29/03
Date

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0151-406-404-03

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5 **MUR 5313**
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7 **Complainant:** Rusty Hills, Chair
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9 **Respondents:** Michigan Democratic State Central Committee
10 Roger Winkelman, Treasurer
11
12

13 **Allegations:** Rusty Hills, Chairman for the Michigan Republican State Committee,
14 alleged that the Michigan Democratic State Central Committee failed to report
15 expenditures for the March 11, 2000 Presidential Caucus that selected delegates to attend
16 the 2000 Democratic National Convention.
17

18 **Responses:** The Michigan Democratic State Central Committee ("MDSCC") and Roger
19 Winkelman, as treasurer, responded to the complaint by stating that it had announced the
20 Michigan Delegate Selection Plan for the 2000 Democratic National Convention. The
21 Plan provided for apportionment of Michigan's 2000 Democratic Convention Delegates
22 based on caucuses conducted on March 11, 2000, at over 100 caucus sites in 82 Michigan
23 counties. The counties and congressional district organizations, however, were
24 responsible for staffing, locating, and paying for the caucus in their respective counties.
25 The MDSCC had no responsibility for locating or paying for the local caucus sites,
26 arranging or paying for refreshments, or any other accommodations for voters. The
27 complaint was premised on the unsupported assumption that the MDSCC bore all of the
28 costs associated with the 2000 Presidential caucuses. The only costs incurred by the
29 MDSCC for the caucuses were those related to publicizing the caucuses via the Internet,
30 press releases, printing, mailing, tallying of the mail-in ballots, and tallying the statewide
31 totals based on reports from local committees. The costs were properly paid from the
32 MDSCC's federal account and were allocated and reported.
33

34 This case was temporarily transferred to the ADR Office on December 27, 2002,
35 and returned on January 22, 2003, as inappropriate for ADR.
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37 This matter is less significant relative to other matters pending before the
38 Commission.